

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

July 30, 2009

The Honorable Christopher J. Connors
State of New Jersey Senate
9th Legislative District
620 West Lacey Road
Forked River, NJ 08731

Dear Mr. Connors:

On behalf of the Nuclear Regulatory Commission, I am responding to your letter to Chairman Jaczko on June 29, 2009, in which you urged the immediate release of the Exelon root cause analysis report regarding the recent tritium release at the Oyster Creek Nuclear Generating Station from two buried pipes that experienced corrosion. We understand your concern in this matter and agree with you on the importance of transparency with the public given our oversight role. Regarding your request for the release of information, we will soon make publicly available detailed information in an NRC inspection report; this is in addition to the May 2009 public briefings conducted at our Annual Assessment Meeting in Tom's River, NJ. As you are aware, subsequent to your letter, Exelon published a detailed summary of the root cause analysis report on July 8, 2009, which we believe accurately conveys the major findings of that report; that summary received widespread public distribution in the communities near Oyster Creek.

Since identification of the tritium release onsite at Oyster Creek on April 15, 2009, NRC has inspected Exelon's performance relative to its evaluation of radiological consequences to public health and safety, assessed the effectiveness of Exelon's investigation to determine the source of the contamination and actions necessary to resolve the condition, and reviewed the circumstances that led to this occurrence. We have briefed representatives of the State of New Jersey Department of Environmental Protection (NJ DEP) regarding our progress and preliminary findings in this matter. In addition, under provisions contained in an existing Memorandum of Understanding between the NRC and the State of NJ, representatives from NJ DEP have accompanied our inspectors during the onsite portion of our follow-up inspections.

In your letter, you referenced local media reports indicating that the NRC has a six-week time frame to decide whether to make this information public. This is a misunderstanding of our process. In accordance with NRC practice, we expect to issue our inspection report and make it publicly available within 45 days (just over six weeks) of the completion of this inspection; hence the six-week reference contained in the local news media reports.

This NRC inspection activity required the review of many licensee records and documents, including Exelon's root cause analysis report. The review of such documentation was necessary to understand the events and circumstances that led to the occurrence, determine the adequacy of Exelon's efforts to investigate and resolve the cause of the condition, determine the extent to which the problem might occur on buried pipes in the future, and assess the consequence to public health and safety.

In accordance with NRC practice, the inspection report will identify all documents that were reviewed within the scope of the inspection. The information derived from the many documents,

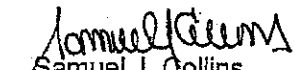
as well as NRC inspector interviews with pertinent licensee personnel and independent NRC reviews and observations, will form the bases for our assessment of licensee performance, including any regulatory findings and conclusions that may be identified.

NRC inspection reports do not include copies of the licensee-controlled documentation, such as Exelon's root cause analysis report, since the documents are licensee property and part of their record system.

The NRC received a Freedom of Information Act (FOIA) request on the tritium leakage at Oyster Creek that encompasses the Exelon root cause analysis report. The NRC was informed by Exelon that it considers the root cause analysis report to contain proprietary information, and requested that it be withheld from disclosure in accordance with 10 CFR 2.390. FOIA and the Uniform Trade Secrets Acts, and our regulations and procedures implementing these laws, require us to evaluate licensee requests for withholding and, where appropriate, withhold such documents. Accordingly, the NRC's final decision regarding the release of Exelon's root cause analysis report is dependent on the agency's ongoing evaluation of the validity of Exelon's bases for its request.

Should you desire a more detailed briefing in this matter or have any further questions, please contact our State Liaison Officers, Nancy McNamara or Doug Tift, at (610) 337-5337.

Sincerely,


Samuel J. Collins
Regional Administrator